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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/035,159	01/04/2002	Syoichiro Yoshiura	1035-362	1757

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EXAMINER

HARBECK, TIMOTHY M

ART UNIT	PAPER NUMBER
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3692

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	12/27/2006	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/035,159

Applicant(s)

YOSHIURA ET AL.

Examiner

Timothy M. Harbeck

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 01/04/2002, 4/15/05, 11/17/05, 3/14/06
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

Claim 38 is objected to because of the following informalities: Claim 38 refers to the apparatus of claim 36. However claim 36 is not an apparatus claim, but rather a "computer readable medium recording." Appropriate correction is required.

Double Patenting

Claim 32 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 31. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k). Claim 31 recites in part "an information generating process for selecting..." whereas claim 32 recites in part "an information generating process for causing an information generating section of an information communication apparatus to select...." A similar difference is noted in the communication informing process. The remaining limitations are essentially the same. The examiner finds these to be substantial duplicates as "selecting" and "causing to select" an article constitute the same step. There are numerous other examples of substantially similar claims. Claim 34 is a substantial duplicate of claim 33, and claim 36 is a substantial duplicate of claim 35. Claims 39-40 substantial duplicates of claims 24-25. Claims 41-42 also seem to be duplicates of claims 24-25 (and by proxy 39-40)

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Claim 43 is also a substantial duplicate of claim 1. Applicant must adequately explain the differences between these claims or cancel the duplicates.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 4-10, 12 and 37 are rejected under 35 U.S.C. 102(e) as being anticipated by Spear et al (hereinafter Spear; US 6,486,439 B1).

Re Claim 1: Spear discloses an information communication apparatus, provided in a user device, which is set to be capable of performing communication with outside via a network comprising:

- An information generating section for selecting an article suitable for maintenance of the user device, so as to generate purchase information which indicates that purchase of the article is required, in accordance with status of the user device (Column 2, line 66 – Column 3 line 16)
- A communication section for opening the purchase information to plural dealers, and for receiving sales information, which indicate sales

conditions of said article, from respective dealers, so as to inform the sales information to a user (Column 3, line 57 – Column 4 line 6).

Re Claim 4: Spear further discloses wherein said information generating section is set to generate purchase information, which indicates that purchase of an expendable is required in the user device (Column 3, line 62 - Column 4 line 4).

Re Claim 5: Spear further discloses wherein said information generating section is set to generate the purchase information, which indicates that the purchase of the expendable, left in the user device, becomes less than a predetermined value (Column 7, line 26-63)

Re Claim 6: Spear further discloses wherein said information generating section is set to generate purchase information, which indicates that purchase of a replacement part is required in the user device (Column 3, line 57 – Column 4 line 6).

Re Claim 7: Spear further discloses wherein said information generating section is set to generate the purchase information, which indicates that the purchase of the replacement part is required in the user device, when deterioration of the replacement part of the user device becomes more than a predetermined value (Column 3, lines 32-62).

Re Claim 8: Spear further discloses wherein said information generating section is set to generate purchase information, which indicates that a regular examination is required with respect to the user device (Column 3, lines 54-57 'routine maintenance').

Re Claim 9: Spear further discloses wherein said information generating section is set so that the purchase information includes specifying information to specify the

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user device (Column 3, lines 62-65; 'information relating to the welding system, the selected part and associated part suppliers).

Re Claim 10: Spear further discloses wherein said information generating section is set to stop generating the purchase information in accordance with an instruction of the user (Column 3, line 54-Column 4 line 6).

Re Claim 12: Spear further discloses wherein said communication section informs the sales information by displaying sales information (Column 10 line 15-Column 11 line 12)

Re Claim 37: Spear discloses an information communication apparatus, provided in a user device, which is set to be capable of performing communication with outside comprising:

- An information generating section for generating device information concerning the user device (Column 2, line 66 – Column 3 line 16)
- A communication section for transmitting the device information to plural sending ends and for receiving reply information with respect to the device information (Column 3, line 57 – Column 4 line 6)
- A display section for displaying the reply information (Column 10 line 15-Column 11 line 12)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-3, 11, 13-36 and 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spear in view of Heimermann et al (hereinafter Heimermann US 7,110,976 B2).

Re Claim 2: Spear discloses the claimed apparatus supra and further discloses wherein said communication section is set to open the purchase information to the plural dealers and wherein said communication section is set to received sales information of the respective dealer (Column 8, line 57 – Column 9 line 33). Spear does not explicitly disclose wherein the purchase information is sent to an auction server, which collects the sales information from the respective dealers and returns this information to the system. Heimermann discloses a centralized requisition driven order formulating, e-procurement method using reverse auction that teaches a web-site based reverse auction among competing authorized suppliers, employed for purchase of goods and services (Abstract) in a server based system (Column 19, lines 25-39). It would have been obvious to a person of ordinary skill to include the teachings of Heimermann to the disclosure of Spear to force competition among a large number of authorized suppliers. Because Spear indicates that a number of possible suppliers are utilized to fulfill different parts (Column 9 lines 1-5, Column 11, lines 30-31), and Heimermann teaches that that reverse auctions were known to provide an efficient means to find a low cost dealer amongst many, it would have been obvious to a person of ordinary skill to include the teachings of Heimermann to the disclosure of Spear to force competition among a large number of authorized suppliers.

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Re Claim 3: Spear in view of Heimermann discloses the claimed apparatus supra and Heimermann further discloses wherein said auction server is set to determine a successful bidder in accordance with the sales condition transmitted from the respective dealers (Column 20, lines 14-30) and said auction server is set to inform the communication section of the successful bidder that has been determined (Column 20, lines 36-52).

Re Claim 11: Spear discloses the claimed apparatus supra but does not explicitly disclose wherein said information generating section is set so that the purchase information includes information that causes a dealer to be determined as a successful bidder. Heimermann teaches this step (Column 20 lines 14-30). It would have been obvious to a person of ordinary skill in the art to include the teachings of Heimermann to the disclosure of Spear so that the dealer knows the exact specifications of the goods they are bidding, which assures that the ultimate user gets what they need, and the dealer is not mistakenly bidding on something it cannot provide.

Re Claims 13-19: Further system claims would have been obvious from the previously rejected apparatus claims 1-12, and are therefore rejected using the same art and rationale.

Re Claims 20-22: These claims are very similar to claims 1-3 respectively, except involving a 'peripheral' device suitable for the user device, as opposed to a replacement part or article. For the most part then, the claims are rejected under the aforementioned art and rationale. Applicant defines a peripheral device as heightening

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the function of the original device (paragraph 0121). The disclosure of Spear enables automated order and fulfillment of both replacement parts and/or welding programs and procedures (See abstracts). Spear also discloses additional hardware components that may be added to the welding system as a whole (Column 6, lines 46-59) and indications for requirements for certain upgrades (Column 6 line 60-Column 7 line 5). Therefore Spear further discloses additional required 'peripheral' devices suitable for the device that heighten the function of the device.

Re Claims 23-30: Further method claims would have been obvious from previously rejected apparatus claims 1-12, and are therefore rejected using the same art and rationale.

Re Claims 31-32: These claims are substantially the same as claim 1, with the added step that a computer executes the processes. For the most part then, the claims are rejected under the aforementioned art and rationale. Spear further discloses this step (Column 10, lines 15-45).

Re Claims 33-34: Further program claims would have been obvious from the previously rejected apparatus claims 1-12 and are therefore rejected using the same art and rationale.

Re Claims 35-36 and 38: Further computer readable medium claims would have been obvious from the previously rejected system claims 1-12 and are therefore rejected using the same art and rationale.

Re Claims 39-40: These claims are substantial duplicates of claims 24 and 25 respectively and are therefore rejected using the same art and rationale.

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Re Claims 41-42: These claims are substantial duplicates of claims 24 and 25 respectively and are therefore rejected using the same art and rationale.

Re Claim 43: This claim is a substantial duplicate of claim 1 and is therefore rejected using the same art and rationale.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Harbeck whose telephone number is 571-272-8123. The examiner can normally be reached on M-F 8:30-5:00.

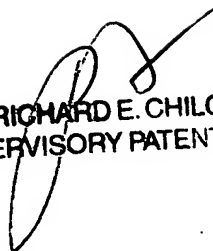
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER